

DBD-CV19-6029914-S

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SUPERIOR COURT

SHUANA TUCKER-SIMS

2019 APR 18 AM 9:09

JUDICIAL DISTRICT

V.

JUDICIAL DISTRICT  
DANBURY  
STATE OF CONNECTICUT

THE LINKS, INCORPORATED,  
KIMBERLY JEFFRIES LEONARD  
and RAYNETTA WATERS and  
NATALIE FANT

AT DANBURY

APRIL 18, 2019

### CORRECTED MEMORANDUM OF DECISION

(Correction to Memorandum of Decision dated April 17, 2019

Corrections made were re: on page 18, footnote 15 has been changed to Middlebury from Middletown; on page 3, the *Silver v. Holtman* duplicate citation has been omitted.)

Plaintiff Shauna Tucker-Sims seeks a temporary writ of mandamus pursuant to Practice Book § 23-48 to compel defendant the Links, Incorporated ("The Links") and its officials named as defendants to certify her as a candidate for the office of Eastern Area Director. For the reasons stated below the Court concludes that plaintiff is entitled to a temporary writ of mandamus and defendants are enjoined to certify plaintiff as a candidate for Eastern Area Director.<sup>1</sup>

"Mandamus neither gives nor defines rights which one does not already have. It commands the performance of a duty. It acts upon the request of one who has a complete and immediate legal right; it cannot and does not act upon a doubtful and contested right. It is an expeditious remedy to protect a clear legal right. . . . A writ of mandamus is a prerogative writ which will issue only to enforce a clear legal right where the person to whom it is addressed is

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<sup>1</sup> The request for a temporary writ of mandamus was heard on an expedited schedule because the election for Eastern Area Director is scheduled to be held during the Eastern Area Conference set to begin on April 24, 2019 with the election believed scheduled on April 26, 2019. The hearing was supposed to commence on March 25, 2019, but was delayed when the case was removed to federal court. On remand the hearing commenced on April 8, 2019 and ended on April 16, 2019. The parties agreed to the expedited schedule. The Court agreed to decide the pending motion to dismiss before reaching the merits of mandamus. By memorandum decision filed herewith the motion to dismiss was denied.

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under a legal obligation to perform the act commanded.” *Boyko v. Weiss*, 147 Conn. 183, 186 (1960).

In *Cook-Littman v. Board of Selectmen*, 328 Conn. 758, 768 n. 9 (2017), the Supreme Court expounded on when a writ of mandamus may be issued:

“‘[A] writ of mandamus is an extraordinary remedy, available in limited circumstances for limited purposes. . . . It is fundamental that the issuance of the writ rests in the discretion of the court, not an arbitrary discretion exercised as a result of caprice but a sound discretion exercised in accordance with recognized principles of law. . . . That discretion will be exercised in favor of issuing the writ only where the plaintiff has a clear legal right to have done that which he seeks. . . . The writ is proper only when (1) the law imposes on the party against whom the writ would run a duty the performance of which is mandatory and not discretionary; (2) the party applying for the writ has a clear legal right to have the duty performed; and (3) there is no other specific adequate remedy. . . . ‘In deciding the propriety of a writ of mandamus, the trial court exercises discretion rooted in the principles of equity. . . .’”

Mandamus does not lie to compel the performance of a discretionary function; the duty compelled must be to perform a ministerial act for which there is no discretion. As the Appellate Court observed in *Greenfield v. Reynolds*, 122 Conn. App. 465, 469-70 (2010):

“Our Supreme Court has held that ‘[i]t is axiomatic that [t]he duty [that a writ of mandamus] compels must be a ministerial one; the writ will not lie to compel the performance of a duty which is discretionary. . . . Consequently, a writ of mandamus will lie only to direct performance of a ministerial act which requires no exercise of a public officer's judgment or discretion. . . . Furthermore, where a public officer acts within the scope of delegated authority and honestly exercises her judgment in performing her function, mandamus is not available to review the action or to compel a different course of action. . . . Discretion is determined from the

nature of the act or thing to be done rather than from the character of the office of the one against whom the writ is directed.” (Citations omitted).

“[A] writ of mandamus is appropriate only when all three prongs of the test have been satisfied, the plaintiff’s failure to satisfy any one of them is dispositive of his claim.” *Greenfield*, 122 Conn. App. at 473.

Although the scope of a writ of mandamus is narrow the scope of evidence a court may consider in exercising sound equitable discretion is broad. In *Silver v. Holtman*, 149 Conn. App. 239, 258 (2014), the Appellate Court held that issuance of a writ of mandamus is a matter of judicial discretion to be exercised in the interests of justice after balancing all the equities:

“Even satisfaction of this demanding test does not, however, automatically compel issuance of the requested writ of mandamus. . . . In deciding the propriety of a writ of mandamus, the trial court exercises discretion rooted in the principles of equity.’ . . . ‘In an equitable proceeding, the trial court may examine all relevant factors to ensure that complete justice is done. . . . The determination of what equity requires in a particular case, the balancing of the equities, is a matter for the discretion of the trial court.” (Citations omitted).

Mandamus will lie where there has been a clear error in judgment in the conclusion reached in failing to perform a ministerial duty. See *Timko v. Chotkowski*, 26 Conn. Supp. 266, 272 (1966) (*Parskey, J.*).

Although most reported mandamus cases involve public officials, the statute authorizing superior courts to issue a writ of mandamus, C.G.S. § 52-485, contains no limitation of such writ to public officials. Mandamus has been issued in analogous cases such as where a private corporation refuses to allow shareholders to inspect corporate books and records despite their clear legal right to do so. See *Pagett v. Westport Precision, Inc.*, 82 Conn. App. 526, 531, 539-40 (2004); *MMI Investments, LLC v. Eastern Co.*, 45 Conn. Sup. 101, 118 (1996) (*Fineberg, J.*);

*DeRosa v. The Terry Steam Turbine Co.*, 26 Conn. Sup. 131, 141 (1965) (*Palmer, J.*). Although the shareholders' "clear right" to inspection of the corporations' books and records in such cases is statutory, the underlying right to support mandamus has not been limited to statutory rights.

In *Sterner v. Saugatuck Harbor Yacht Club*, 188 Conn. 531, 534-35 (1982), the Supreme Court affirmed mandamus is available when a member of an incorporated benevolent society is deprived of membership rights and privileges:

"The writ of mandamus that the plaintiff seeks has been recognized by our decisions. In *Lahiff v. St. Joseph's Total Abstinence and Benevolent Society*, . . . 76 Conn. [648] 652 [1904], the court noted that mandamus 'is often an appropriate remedy for the reinstatement of a member of an incorporated benevolent or social society, who has been unlawfully and unreasonably deprived of the enjoyment of the rights and privileges of membership in such societies. . . . Such associations, although private corporations, are chartered by the State, and enjoy privileges and exercise powers expressly granted by the State, and for that reason the duties devolving upon them are regarded as of a public character, the performance of which may properly be compelled by writ of mandamus.' See also *Bassett v. Atwater*, 65 Conn. 355, 32 A. 937 (1895). Cf. General Statutes § 52-487. But for mandamus to lie, the plaintiff must have no other adequate remedy. 3 Blackstone, Commentaries; High, Extraordinary Legal Remedies (1874) §§ 277, 283, 289; II Stephenson, Conn. Civ. Proc. § 261."<sup>2</sup>

Other courts have followed *Sterner* and rejected the argument that mandamus "may only be sought against a public official on whom the law imposes a public duty". See e.g., *McLean v. Vision Management, LLC*, 2012 WL 4801519 \*3 (Conn. Super. 2012) (*Swienton, J.*) ("[t]he

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<sup>2</sup>See generally Mandamus, 52 AmJur2d 309, 393 (2011): "[w]hen a member of an incorporated benevolent or social society is unlawfully and unreasonably deprived of the enjoyment of the rights and privileges of membership in the society mandamus will issue." Practice Book § 23-45 provides "[a]n action of mandamus may be brought in an individual right by any person who claims entitlement to that remedy to enforce a private duty owed to that person. . . ."

plaintiff correctly points out that our Appellate and Supreme Courts have allowed writs of mandamus against non-governmental entities”) citing *Pagett*, 82 Conn. App. at 530 and *Sterner*, 188 Conn. at 535. See also *Taylor v. East End Baptist Tabernacle Church, Inc.*, 2017 WL 4621242 \*3 (Conn. Super. 2017) (*Kamp, J.*).

“[T]he constitution, rules, and bylaws of an unincorporated association constitute a contract between the members and will be enforced by the courts if not contrary to public policy.” *Davenport v. Society of Cincinnati in State of Connecticut, Inc.*, 46 Conn. Supp. 411, 434 (1999) (*Lavine, J.*). Mandamus will lie where an organization’s official acts “in plain disregard of the rules of law established for his governance, capriciously or arbitrarily, and not in the honest exercise of discretion or judgment, his conduct is tantamount to a refusal to act at all and mandamus lies, not only to compel him to act, but to direct that action along the prescribed way.” *Brooks v. Hitchcock*, 33 Conn. Supp. 687, 690 (App. Sess. 1966).

The Court is authorized to issue a temporary writ of mandamus under Practice Book § 23-48 where equity and the interests of justice require immediate action to preserve important rights that otherwise would be lost. See *Satti v. Grasso*, 27 Conn. Supp. 67, 71 (1966). See also *Comely v. Wilson*, 116 Conn. 36 (“[i]t is the duty of courts when it is necessary to preserve the substantial rights of any person, not to hesitate to act in controversies growing out of elections; but they should act only upon a clear showing that otherwise serious injustice will be done”).

The Links is an international, not-for-profit corporation, whose membership consists of 15,000 professional women of color in 288 chapters located in 42 states, the District of Columbia, the Commonwealth of the Bahamas and the United Kingdom. There are six chapters in Connecticut with overlapping boundaries. The Links is governed by documents that set forth detailed rules and procedures for the organization, including the process for nomination and election of officials. The Links’ officials are required to adhere to the governing documents and

have a legal obligation to do so; members such as plaintiff are entitled to enforce the governing documents within their legal rights as members.

The Links' governing documents establish a clear legal right of plaintiff to run for the Eastern Area Director position as a member in good standing. To be a member in good standing plaintiff was required to maintain a residence within the boundaries of the Fairfield County Chapter (the "Chapter"). The evidence established that plaintiff maintained two residences in Connecticut, a Middlebury residence that is outside the Chapter boundaries and a residence in Danbury that is within the Chapter boundaries. The Links' rules envision a member with dual residences and, if the member chooses, the member may add a secondary chapter to facilitate satisfying requirements for meeting attendance and service hours.<sup>3</sup> Plaintiff did not choose to designate a secondary chapter and remained a member of the Chapter. The Links' rules do not distinguish between primary and secondary residences to satisfy the good standing requirement of maintaining a residence within chapter boundaries. The only challenge to plaintiff's candidacy related to whether she maintained a residence within Chapter boundaries. No other basis for

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<sup>3</sup> The "dual residencies" language in the Constitution and Bylaws (Art. 1, Sec. 6. A8), otherwise inapplicable to this dispute, confirms that the use of the word "residence" in the governing documents is not synonymous with "domicile." See generally *McCants v. State Farm Fire & Cas. Co.*, 157 Conn. App. 509, (2015), citing *Argent Mortg. Co. v. Huertes*, 288 Conn. 568, 578 (2008): "A person may have more than one residence. . . . A person's residence, then, is a place where the person intends to remain with some sense of permanency, but continuous presence is not required." The credible witnesses testified they understood the governing documents to refer to residency, not domicile, in the sense of a physical residence within the chapter boundaries. The general counsel and parliamentarian advised defendants Waters and Leonard that residence, not domicile, was required within chapter boundaries and dual residencies were permitted. Defendants insisted "residence" meant primary residence and a member could not claim dual residency unless she had applied to have a secondary chapter. The governing documents do not support this position. There was a non-governing document that alludes to the distinction between domicile and residence but the illustration was about inducting a new member who did not physically reside within the chapter's boundaries. Here, plaintiff physically resides in both residences, with a primary residence in Middlebury and a secondary residence in Danbury, and thus satisfied the residency requirement with an actual residence within the Chapter boundaries consistent with the dual residencies principle recognized in the governing documents. Both residences in Connecticut are within the Eastern Area.

denying her good standing has ever been raised. The overwhelming evidence establishes that plaintiff has maintained a Danbury residence since July 1, 2016, two years before the current election. Her membership status in good standing has not been changed. As a member in good standing plaintiff had an absolute right to run for Eastern Area Director. Plaintiff should have been certified as a candidate for that position on November 30, 2018, the deadline set by the Nominating Committee in accordance with published procedures. There is no question she should have been certified as a candidate when she verified her dual residences one of which was within the Chapter boundaries on December 5, 2018 or on December 7, 2018, when the Eastern Area Nominating Committee confirmed the Danbury residence address was within Chapter boundaries.

Plaintiff has a clear legal right to be certified as a candidate for Eastern Area Director. Defendants had the ministerial duty to certify her candidacy under the Links' governing documents and had no discretion to delay certification, refuse certification or to de-certify her candidacy. As a member in good standing who maintained a residence within the Chapter boundaries defendants had no discretion to deny certification of plaintiff's candidacy.

Plaintiff has no other specific remedy adequate to give her the relief to which she is entitled. See *Meyers v. Town of Westport*, 41 Conn. Supp. 295, 298 (1989) (*Flynn, J.*).<sup>4</sup> Although nominations may be made from the floor of the convention, there is a decided advantage to being a certified candidate. Certified candidates are allowed to participate in pre-convention campaigning, engage in election events, post and distribute brochures to the members and

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<sup>4</sup> "There is little question that there is no other adequate legal remedy available to the plaintiffs. If they are not placed on the ballot in time to be voted upon for the 1989 election by an order of mandamus, no other remedy exists to which they may resort, at their option, fully or freely without let or hindrance." *Meyers*, 41 Conn. Supp. at 298. The same is true here. There was no requirement that plaintiff exhaust the internal remedies for ethical or disciplinary complaints that have no bearing on the certification issue.

otherwise communicate with the voting members before the election. Moreover, a candidate nominated from the floor must still qualify as a member in good standing so the same issues would continue to cloud her candidacy.

The balance of equities decidedly weighs in favor of issuance of the writ. The credible evidence established that certain Links' officials, including the individual defendants, have participated in a concerted effort to deny plaintiff her legal right to run for the position of Eastern Area Director.<sup>5</sup> These officials used their positions in the organization to throw roadblocks in the way of plaintiff's certification as a candidate for Eastern Area Director. The first attempt to thwart plaintiff's candidacy occurred when certification was delayed in response to an anonymous complaint that she did not reside within the boundaries of the Chapter. Although both plaintiff's residences in Connecticut are within the Eastern Area and there is no requirement that the Eastern Area Chair reside within the boundaries of her chapter, the complaint was that plaintiff should not be considered a member in good standing eligible to run for office because she did not reside within her chapter's boundaries. On November 28, 2018, defendant Waters, the Chair of the National Nominating Committee, sent an email to plaintiff notifying her that certification of her candidacy was delayed because a member had complained about her residency. Defendant Waters did not inform plaintiff the complaint was anonymous, which is a significant omission because the Links' rules prohibit acting on anonymous complaints. Defendants were well aware of the prohibition to taking any action in response to an anonymous complaint. Moreover, the National Nominating Committee had no role to play in vetting

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<sup>5</sup> Defendant Kimberly Jeffries Leonard is President of The Links, Defendant Raynetta Waters is the National Nominating Committee Chair, and Defendant Natalie Fant is Eastern Area Director. Defendant Leonard was elected President in July 2018. The President appointed the General Counsel and Parliamentary and the non-officer members of the Executive Council who comprise most of its members.

candidates for area office, which is the responsibility of the Eastern Area Nominating Committee which certifies candidates for area offices.

The credible evidence is that all the defendants did not like plaintiff and did not want her name to appear on the ballot. Defendants were aware the anonymous complaint was by Cathy Graves, who wanted to be Eastern Area Director instead of plaintiff. Waters was acting in concert with the other defendants to delay and derail plaintiff's candidacy. Defendants' plan was to turn over the residence verification process to Waters' control and to change the process for certification of candidate after deadlines to submit candidate applications and for certification had passed.<sup>6</sup>

When plaintiff learned the complaint was anonymous she raised the constitutionality of delaying her certification for an anonymous complaint. Defendants, who were fully informed of what was happening, interjected themselves in a process in which they had no role, failed to stop the unconstitutional investigation but instead, contrary to the established schedule, delayed certification of plaintiff's candidacy while Waters pressed the complainant to identify herself.<sup>7</sup>

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<sup>6</sup> Defendants knew that Cathy Graves, the President of the New Haven Chapter, was the anonymous complainant and they knew she did not want her name publicly disclosed. The complaint initially was made orally to defendant Waters in a telephone call from Ms. Graves, which she later reaffirmed by email, after Waters requested a written complaint, that was sent to defendants Waters and Leonard, but not to the Eastern Nominating Committee, which was charged with certifying candidates. Ms. Graves let both Waters and Leonard know she wanted her identity to remain confidential. Defendants also knew that Ms. Graves was interested in becoming the Eastern Area Director, but had not submitted an application. They knew Ms. Graves' anonymous complaint was directed at derailing Ms. Tucker's candidacy, which would leave the spot open and subject to nomination from the floor. On October 31, 2019 Ms. Graves had questioned plaintiff's residence at a meeting of the Connecticut Chapter presidents. Ms. Graves was unaware of the Danbury residence at the time she raised the issue.

<sup>7</sup> The National Vice President was charged with dealing with membership issues, not defendants. Defendant Waters tried to draw the National Vice President into the matter, but she declined to become involved because it related to nominations not to a membership issue. No membership issue relating to plaintiff was ever formally raised and plaintiff remains a member in good standing. As Area Director of the Eastern Area defendant Fant was not supposed to be involved in nominations and was advised accordingly. Her continued unauthorized involvement in the

When the anonymous complainant refused public disclosure defendants embarked on a different ploy to disqualify plaintiff as candidate and rushed through changes in the nomination process after the certification process was closed.

Meanwhile, the delay in certification of her candidacy, and later decertification, deprived plaintiff of the advantages of being a certified candidate allowed to post on the websites and/or disseminate to voters a campaign brochure and to participate in candidate forums and election events. It also would force her into the unenviable situation of having to promote her candidacy from the floor with the cloud of de-certification hanging over her head. Defendants' conduct also put plaintiff at an unfair disadvantage to floor nominations for the open spot of Eastern Area Director from candidates like Ms. Graves, who never applied for the position but whose complaint started the events culminating in decertification of plaintiff as a candidate.

The plaintiff provided her Danbury address and defendant Waters confirmed the residence was within the Chapter boundaries on December 7, 2018.<sup>8</sup> At that point defendants

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certification process for plaintiff's candidacy and that of President Leonard implies they acted in concert with defendant Waters' efforts to keep plaintiff off the ballot and to ensure there was not a certified candidate for Eastern Area Director.

<sup>8</sup> On November 20, 2018, the Eastern Nominating Chair received a call from defendant Waters informing her about the anonymous complaint. Defendant Waters would not share the complaint with the Eastern Nominating Committee Chair nor identify the complainant. There were numerous follow-up communications between the Eastern Nominating Chair and defendant Waters in which defendant was pushing the Eastern Nominating Chair to deny certification because of plaintiff's Middlebury residence and the Chair and her committee were pushing back because plaintiff was permitted to have dual residencies and the Danbury address was within the Chapter boundaries. The Chair testified she felt "harassed and bullied" and "badgered" by Waters. A letter to plaintiff dated December 5, 2018, denying certification because of the Middlebury address, drafted at Waters' urging, was not sent because the Eastern Nominating Chair was uncomfortable because the Links permitted dual residencies. In the December 7, 2018 letter notifying plaintiff that the Eastern Nominating Committee Defendant Waters also asked plaintiff for proof she had asked for dual residences under the Constitution. The governing documents do not require a member with dual residences to take advantage of the option of a secondary chapter; it is entirely optional and a member may remain in good standing by doing all hours of service and meeting attendance at her member chapter. The governing documents, even

should have ceased their efforts to disqualify plaintiff and her candidacy should have been certified in compliance with The Links governing documents. Instead, defendants embarked on a strategy of delay until their new plans to sabotage plaintiff's candidacy could be put into place.

As her certification request languished, plaintiff formally raised the issue with the Eastern Area Nominating Chair and her committee, and the Executive Committee, which included the defendants, for clarification of the delay in certification. Plaintiff reached out to the Eastern Nominating Chair, who informed plaintiff her committee, was going to consult with the General Counsel and Parliamentarian. In fact, defendants also were consulting with the General Counsel and Parliamentarian with a view toward thwarting plaintiff's candidacy. The Parliamentarian, backed by the General Counsel, informed defendants that anonymous complaints were not permitted and should not have been accepted or acted upon, and the governing documents only require a residence within chapter boundaries, not domicile, and recognize that a member may have more than one residence. On December 11, 2018, the Parliamentarian and General Counsel sent an email to the Eastern Nominating Chair and Committee informing them of the above and affirmed that it was the area nominating committee that should ascertain whether plaintiff was qualified to run as a member in good standing. On December 16, 2018, plaintiff was notified the complaint was dismissed because the complainant did not want her name released. On December 20, 2018, the Eastern Area Nominating Chair informed plaintiff she was certified as a candidate. On December 20, 2018, minutes later, as a certified candidate, plaintiff was informed about a new resolution adopted by the Executive Council four days before, on December 16, 2018 (the "Resolution"). The defendants are members of the Executive Council and oversaw the drafting and passage of the Resolution that imposed new residency verification requirements that required

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after passage of the Resolution, did not require verification of any residence address other than the in-chapter residence. Plaintiff was never asked to verify her Middlebury address.

the National Nominating Committee “to verify the residence of each candidate through submission of additional documentation by the candidate.” Plaintiff was given one day until December 21, 2018, to submit one of the documents listed in the Resolution to prove residency. In compliance with the Resolution, plaintiff submitted a utility bill for the Danbury address.<sup>9</sup>

None of the governing documents require a candidate to submit proof of residency. On December 16, 2018, the same day plaintiff was notified the investigation into the anonymous complaint had been dropped, the Executive Council, manipulated by defendants, in an emergency meeting called by defendant Leonard, rushed through a resolution introduced at the behest of defendant Leonard, that purported to establish new guidelines for verification of candidate residency in the middle of the election after all candidates had already been certified. The Resolution was drafted with defendant’s oversight and connivance as soon as it became apparent the anonymous complaint would fail and the Eastern Nominating Committee was poised to certify plaintiff’s candidacy. The Executive Council brushed aside concerns expressed by the General Counsel about making these changes after certification had been completed without adequate notice to candidates. The Council also ignored counsel’s recommendations as to proof of residency recognized at law in amending the draft Resolution to delete leases and affidavit of residence as permitted proof of residence. The Resolution also placed the residence verification process in the hands of the National Nominating Committee, chaired by defendant Waters, who defendants knew opposed plaintiff’s candidacy, and took this authority away from

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<sup>9</sup> Shortly afterward plaintiff obtained a driver’s license with the Danbury address. The one day deadline for submission of proof of residency provided the briefest of opportunities to obtain a new driver’s license with the Danbury address. Plaintiff fully complied with the Resolution’s requirement that only one item of proof was needed, which meant she did not have to submit the license to the Links. It would not have made any difference to defendants, who were planning to disqualify plaintiff no matter what proofs of the Danbury address were submitted for verification. No one at The Links ever checked to determine whether plaintiff physically resided at the residence and there is no process to do so. The Resolution only requires verification of the residence address.

the Eastern Area Nominating Committee, which traditionally vetted area candidates and had defendants knew was inclined to act favorably on certification of the candidate. The Resolution was obviously targeted at plaintiff, although it applied to all certified candidates; the references to “anonymous complaints” and “dual residencies” make defendants’ intentions to thwart plaintiff’s candidacy clear. The new guidelines provided only four items for proof of residency, only one of which needed to be submitted. The abbreviated list of items suggest that the proponents of the amendment like defendants were not looking for proof of residence in good faith, but rather was looking to trip up a candidate like plaintiff who had dual residences.<sup>10</sup> For example, the Council decided not to include leases (or deeds) or an affidavit of residence as proof of residence, but rather limited verification to government issued photo identification, voter identification and drivers’ license that would likely use the candidate’s primary address, not the secondary residence in the chapter boundaries. The only listed item that would be available for a secondary residence was a utility bill. At the time the Resolution was pushed through by defendants during the delay occasioned by the anonymous complaint defendants were aware that plaintiff leased a Danbury apartment yet they purposefully did not include a lease or affidavit among the items plaintiff could submit to prove residency in the Chapter boundaries.<sup>11</sup> Defendants did not include the type of proof one would typically have for a secondary residence and limited proof to only four items. One would have thought that the Resolution would not have

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<sup>10</sup> During the telephonic meeting on December 16, 2018, defendant Leonard texted council members urging support for amendment and the Resolution as amended while the meeting was in progress.

<sup>11</sup> The draft submitted by the General Counsel and Parliamentarian included verification of residence by lease or affidavit of residence, but defendant Leonard objected to these items of proof and supported the amendment that removed these items of verification from the Resolution. If plaintiff had been permitted to submit an affidavit she could have explained her dual residencies and removed any pretense for denying her certification. The General Counsel voted against the Resolution as amended and later resigned, in part, because the draft resolution had been revised to remove standard proof of residency accepted by courts.

been so restrictive on the items of proof if it was a “fair, objective and unified verification process”, as declared in the Resolution.<sup>12</sup> The ostensible purpose of the Resolution was to ensure candidates had a residence within their chapter boundaries and it recognized some members had more than one residence and had the option to retain a primary chapter and designate a secondary chapter. The application of the verification process established by the Resolution made it more difficult for a candidate with two residences to qualify as a candidate. As noted above, the Link’s rules do not distinguish between primary and secondary residences and envision members with dual residences.<sup>13</sup> Defendants acted in bad faith by delaying certification of plaintiff’s candidacy and then using the interim to draft and push through a new residency verification process, not in effect when candidates submitted their application, which for the first time required verification of residence but excluded proof of residence typically available for a second residence for candidates with dual residences.

On December 29, 2018, despite plaintiff’s compliance with the verification process in the Resolution, the Eastern Area Nominating Chair, acting at the direction of defendant Waters, notified plaintiff that she was decertified as a candidate because the verification of address provided did not match the address in her candidate application. Defendant Waters made up a new rule out of thin air and informed the Eastern Nominating Chair and committee that “[t]he

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<sup>12</sup> The General Counsel testified that Defendant Leonard screamed and yelled at her when counsel objected to the amendment removing accepted proofs of residence that had been included in the draft by counsel and the Parliamentarian, which amendment was being pushed by defendant. The General Counsel testified defendants did not like plaintiff, did not want her to be a candidate and were targeting plaintiff. Defendants were aware that plaintiff could have verified the Danbury address by lease and affidavit, had the Resolution not been amended to deny such proof.

<sup>13</sup> If a member chose to use her dual residence to add a secondary chapter the primary chapter would be where she paid her dues; she could attend meetings and put in service hours at both chapters. There is no requirement the primary chapter be the location of her primary residence. Plaintiff chose not to have a secondary chapter. The Resolution does not limit verification of residency to the primary residence; it deals with verification of the in-chapter residence.

Nominating Committee can only accept residence verification of the address that was submitted on the on the candidate profile by the October 31<sup>st</sup> deadline.” This was made up out of whole cloth after Defendants Waters and Leonard consulted about this new rationale for decertification. When asked who made the decision, defendant Waters testified she did so after discussions with defendant Leonard. When asked on what she based her decision, she testified it was in the ethics rules somewhere and then proceeded to recite the directions for filling out the candidate profile on line. No where in these directions is there any provision that would disqualify a candidate who changed her address on the on-line member profile after the deadline, which automatically populated to the candidate profile. Moreover, everything done relating to certification of plaintiff’s candidacy concerned verification of her in-chapter residence in Danbury, including the Resolution which purports to verify residence within a members’ chapter boundaries under the Bylaws Art II, § 1 A. The Middlebury address was never required to be verified.

Based on a direction given to the Eastern Nominating Committee by defendant Waters, Chairman of the National Nominating Committee the verification of the Danbury address was used against her candidacy in a different stratagem. Plaintiff was informed that the Danbury address did not match the Middletown address on her candidate application and the Eastern Nominating Committee “can only accept address verification for the address submitted on the candidate profile by the October 31, 2018 deadline.” There is no basis for this restriction in the governing documents or the Resolution. The letter also stated that Waters informed the committee “the verification is not compliant with the request made of you per the Resolution dated December 16, 2018. There can be no further extension of the deadline and the Committee cannot request any additional information from you.” In other words, although there was ample evidence of plaintiff’s residency within the Chapter boundaries, defendants, acting in bad faith, made it impossible for plaintiff to be certified as a candidate by imposing new requirements, not

in effect when plaintiff submitted her candidate application, and rushed through the Resolution when it became obvious any investigation based on the anonymous complaint had to be stopped. Defendants imposed restrictions that are not authorized by any of the Links' governing documents or the Resolution. There is no requirement that the addresses on the candidate application and the in-chapter residence addresses match and there is no requirement or form to enter dual residence addresses. There is no requirement that the candidate application reflects the residence of the applicant within the chapter boundaries. The address plaintiff provided in her candidate application was her Middlebury address, a valid address for contact purposes. The verification provided in compliance with the Resolution was of her Danbury address and fully responded to the request for verification of the Danbury address and should have put to rest any issue about her residence within the Chapter boundaries.

Apparently recognizing that plaintiff had verified her Danbury address by following the process called for in the Resolution, defendants came up with a new rationale for disqualifying plaintiff: that she had edited her campaign application after the deadline for submission. Defendant Waters made the decision to disqualify plaintiff on these grounds after consultation with defendant Leonard. Plaintiff did not edit her candidate application after the deadline to change the address on her candidate profile, but rather changed her member profile address on line to her Danbury residence.<sup>14</sup> There is no requirement in the governing documents that the

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<sup>14</sup> A change in address in the electronic candidate profile would not violate the rules against editing a candidate application after the submission deadline. Candidates were not advised they could not change the address in their membership profile after the application deadline. Plaintiff did not change the address on her member profile until December 21, 2018, after she had finally been certified as a candidate. When plaintiff went on line and changed her member profile to add the Danbury residence as her address on December 21, 2018 it automatically changed her candidate address on the electronic database but that certainly did not constitute a conscious edit of the application in violation of the rules. Further, this automatic edit was not stated as a reason for decertification or a valid ground for de-certifying her candidacy under The Links' election rules. Defendant Waters testified she compared the candidates' residency verification

candidate profile address reflect the in-chapter boundaries residence or that changing one's member profile address during an election campaign would disqualify a candidate. The Links does not require residence addresses on the member profiles so the addresses that automatically populate into the candidates' profiles would not necessary be a residence address; members use business addresses and P.O. boxes as contact information in their profiles. Defendants were grasping at straws to prevent plaintiff's name from being on the ballot and to deprive plaintiff of the benefits of being a certified candidate for Eastern Area Director.

Statements of residence were usually on the honor system, and the verification requirements in the Resolution and the ad hoc restrictions imposed on the Eastern Area Nominating Committee at the direction of Waters, with defendants' connivance, and defendants' later rationale for de-certification worked drastic changes on the nomination process in the middle of the campaign, long after plaintiff's candidacy should have been certified.<sup>15</sup> There was

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submitted in response to the Resolution and address on the candidate profile with the chapter boundaries. The Resolution did not mention verification of the candidate profile address. When she did this with plaintiff, the verification ID and the candidate profile both had the Danbury address. She then compared it with a printout of the candidate profile she had previously done and saw the addresses did not match the Middlebury address on the printout. She discovered the candidate profile address had been changed automatically on December 21, 2018, when plaintiff amended her member profile on line. Waters consulted with Leonard and they decided the change violated the nomination process and the address mismatch was grounds to de-certify plaintiff as candidate. The address mismatch was the only reason plaintiff was decertified as a candidate on December 29, 2018. As noted above, there is nothing in the governing documents that supports this decision or would put anyone on notice that disqualification would be the consequence of an address mismatch.

<sup>15</sup> Plaintiff has been a member of the Chapter for many years and has served in office at the Chapter and Eastern Area. Plaintiff had been a member of the Chapter since she moved to Connecticut over seventeen years ago. She is past President of the Chapter and is presently Vice Director of the Eastern Area. In 2006-2007 plaintiff moved from New Fairfield to Middlebury, which has been her primary residence since then. The Chapter boundaries at the time allowed residence within commuting distance of the chapter boundaries so her residence was not an issue. On July 1, 2016, plaintiff leased the Danbury apartment, which she and her husband use periodically. Although she denied that the apartment was leased to comply with The Links' in-chapter residency requirement, plaintiff testified that in July 2016, the Links changed its residency rules and the Chapter's residency rules, which had extended the boundaries by

no requirement that the candidate's residency be verified when the application was submitted; that was introduced in the Resolution passed two months after the application period closed. At that point it was too late to edit the application to change the address. However, there is no requirement under the applicable rules that plaintiff do so. The requirement is the plaintiff be a member in good standing. Plaintiff has been a member in good standing throughout the process. Once plaintiff verified her in-chapter residence defendants should have ceased all efforts to block her candidacy.

Instead, defendants doubled down, pushed plaintiff to appeal internally, without benefit of counsel, and contrived to have the Chairman of the Ethics Committee send an inflammatory and misleading letter to the entire membership that purported to be sent in the spirit of the Links founding principles of "Friendship and Service." The letter stated that recent litigation violated rules of the organization, which require "an internal investigation of any disciplinary action" and states that "frivolous charges or capricious suits against the organization or a member of the organization constitutes an ethical violation and may result in expulsion from the organization."<sup>16</sup> No ethical complaint and no disciplinary action have ever been taken against plaintiff and the provisions in the rules concerning internal appeals in those types of proceedings are inapplicable. There is nothing in the Links' governing documents that would require exhaustion of internal remedies before challenging the denial of certification of candidacy here.

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commuting distance and had included Middlebury, were abrogated. To remain in good standing as a Links member she was required to either transfer to the Waterbury or New Haven chapters or to establish and maintain a residence in Fairfield County to stay in the Chapter. Since July 2016 plaintiff has maintained two residences with the Danbury residence within Chapter boundaries. This arrangement is consistent with the dual residencies permitted by The Links governing documents. Plaintiff remained active in the Chapter, which is where she paid dues, attended meetings, held office and performed her service hours.

<sup>16</sup> There was testimony two candidates were disqualified as a result of the Resolution and that there are other lawsuits pending by potential candidates that challenged the residency verification process imposed by the Resolution.

Although the Ethics Chair testified she drafted the letter, she also testified she discussed the letter with defendants before it was drafted, they reviewed and edited the draft letter and authorized it being sent. The conclusion is inescapable that sending the letter to the membership was intended to harm plaintiff's prospects of being elected Eastern Area Director and is further evidence of defendants' bad faith.

The Court does not agree that requiring The Links and its officials to following its rules for certification of a candidate who is a member in good standing would harm The Links. The ruling does not undermine the in-chapter residency rules of the Links but rather adheres to the rules that recognize a member may have more than one residence without disrupting the requirement of providing service in the chapter where a member has a residence. To the contrary, allowing an abuse of authority and perversion of process to swing the election away from an announced and qualified candidate and thereby deprive members of the opportunity to vote for a candidate of their choice would be harmful to the organization.

The Court will grant the request for a temporary writ of mandamus to compel defendants to certify plaintiff as candidate for Eastern Area Director in the upcoming election.<sup>17</sup> The Court finds that plaintiff has borne her burden of proof and satisfied the three requisites for issuance of a writ of mandamus. The Court finds that otherwise plaintiff will suffer irreparable injury. No bond is required because the giving of such bond is unnecessary under the circumstances.

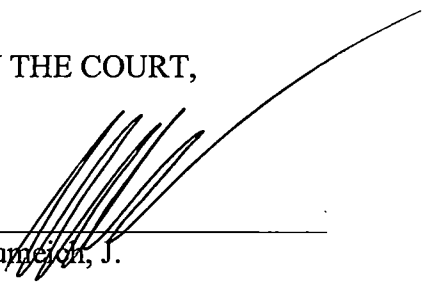
The Court orders that defendants immediately certify the plaintiff as candidate for the office of Eastern Area Director, add her name to the ballot for that office, allow her to post her campaign brochure on the websites and otherwise treat her as a certified candidate in any

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<sup>17</sup> When mandamus is appropriate an injunction need not be granted. See *West Hartford Taxpayers, Assn. v. Streeter*, 190 Conn. 736, 738 n. 1 (1983). Under the circumstances here the extraordinary equities also support issuance of a mandatory injunction to compel the same relief, without bond, based on plaintiff's likely success on the merits, to avoid immediate and irreparable harm for which there is no adequate remedy at law.

posting, mailings or election documents and notify the voting membership of such certification and change to the slate on the ballot.

BY THE COURT,



Krumpal, J.